CONSTITUTION
OF THE
NATIVE VILLAGE OF NIKOLAI

PREAMBLE

We, the Alaska Natives, having a common bond of residence in the neighborhood of Nikolai, Alaska, do ordain and establish this Constitution in accordance with and by authority of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended, by the Act of June 15, 1935 (49 Stat. 378), and May 1, 1936 (49 Stat. 1250).

ARTICLE I - NAME

The name of this organization shall be the Edzeno' Native Village Council of Nikolai.

ARTICLE II - TERRITORY

The territory and/or jurisdiction of the Native Village of Nikolai shall extend to such Indian country, as defined by Federal law, and such other territory as may hereafter be added thereto.

ARTICLE III - MEMBERSHIP

Section 1. Basic Membership. The basic membership of the Native Village of Nikolai shall consist of all Alaska Natives whose names appear on the roll of Native Village of Nikolai approved by the Secretary of the Interior on _____; provided that, the council may correct the basic membership roll within two (2) years from the effective date of this constitution subject to the approval of the Secretary of the Interior.

Section 2. Qualifications for Membership. Any persons of at least one-quarter (1/4) degree Alaska Native or other federally recognized American Indian blood who meets any of the following qualifications shall be eligible to be a member of the Native Village of Nikolai:

(a) has physically resided in Native Village of Nikolai, Alaska, for a period of at least one (1) year immediately prior to the date of application for membership; or

(b) is descended from an enrollee to Nikolai under:

1. the terms of the Alaska Native Claims Settlement Act, as amended; or
2. the basic membership roll approved by the Secretary of the Interior pursuant to Section 1 of this Article.

Section 3. Regulation of Membership. The council shall have the power to enact ordinances and resolutions, not inconsistent with this constitution, prescribing rules and regulations governing membership, including application and appeal procedures, loss of membership, and adoption of members. The council shall have the power to adopt ordinances, subject to approval by the Secretary of the Interior, to extend the privilege of membership for community purposes to persons not otherwise eligible under Section 2 of this Article.

ARTICLE IV - GOVERNING BODY

Section 1. Name. The governing body of the Native Village of Nikolai shall be the Nikolai Village Council, hereinafter referred to as the council.

Section 2. Composition. The council shall consist of five (5) members who shall be elected by a majority vote of the qualified members of the village.

Section 3. Officers. The council shall include a First Chief, Second Chief, Secretary/Treasurer, and two (2) council members.

ARTICLE V - ELECTIONS

Section 1. Voter Qualifications. Any duly enrolled member of the Native Village of Nikolai eighteen (18) years of age or older and who has resided for at least one (1) year in the village prior to an election shall be entitled to vote in that village elections.

Section 2. Election. The first election of officials under this constitution shall be held within sixty (60) days of the effective date of this constitution, at which time a system of staggered terms shall be established. At the first election under this constitution, the First Chief, the Secretary/Treasurer and one (1) council member shall be elected to hold office for a term of two (2) years.

The Second Chief and one (1) council member shall be elected to hold office for the term of one (1) year. Thereafter, all terms of office shall be for two (2) years. Members shall hold office until their successors are duly elected and seated.

Section 3. Election Ordinance. An election ordinance, consistent with this constitution, shall be adopted by the council which shall set forth the procedures to be followed in conducting elections call for in this constitution. The election ordinance may be amended and/or revised at any time as needed. The ordinance shall include provisions for conducting all village elections by secret balloting, qualifications of candidates, procedure for nominations, maintenance of a current list of eligible voters, and the settling of selection disputes by the election board to be appointed pursuant to Section 4 of this Article.

Section 4. Election Board. The council shall appoint an election board to serve for three (3) years, whose duties shall be to supervise, administer, and conduct all village elections. The election board shall certify the election of village officials within five (5) days after the election. In the event of election disputes, the determination of the election board will be final. The election board will have the authority to determine the validity of petitions submitted to the council for any purpose in accordance with procedures developed in the election ordinance mandated in Section 3 of this Article. No member of the election board shall at the same time be a member of the council or a candidate for a position on the council.

ARTICLE VI - REMOVAL, RECALL AND FORFEITURE

Section 1. Removal. Any council member or other official found guilty by the council of behavior involving gross misconduct in office or neglect of duty shall be removed from office if at least three (3) members of the council vote in favor of such removal. Voting must be by secret ballot and the First Chief is entitled to vote. If the accused is a member of the council, the accused shall not have the right to cast a secret ballot. Before any vote for removal is taken, the person subject to removal shall be given a written statement of the charges against him/her at least ten (10) days before the meeting of the council at which he/she is to appear and he/she shall be given an opportunity to answer any and all charges against him/her at least ten (10) days before the meeting of the council at which

he/she is to appear and he/she shall be given an opportunity to answer any and all charges at the designated council meeting. If the person subject to removal fails to appear before the council, the council shall proceed with the vote as scheduled. The decision of the council shall be final. No member of the council shall preside over the meeting at which his/her removal is being considered.

Section 2. Recall. Village members shall have the power to recall any member of the council. The recall process shall be initiated by filing with the council a valid petition asking for such recall, signed by at least thirty percent (30%) of the eligible voters, and setting forth the reasons for the petition. Within thirty (30) days after receipt of a valid recall petition, the council shall call and conduct an election to consider the recall of the official named in the petition.

The election shall be conducted pursuant to the election ordinance. Once an individual has been subjected to recall proceedings, he/she shall not again be subject to such action during the balance of his/her term in office.

Section 3. Forfeiture. Any member or officer of the council shall automatically forfeit his/her office if he/she is found guilty of a felony in any federal or state court, dies, or is absent from three (3) successive regular meetings without being excused by the council.

ARTICLE VII - VACANCIES

Section 1. Any office which has been vacated, whether it be by removal, recall, or forfeiture, shall be filled by appointment of the council at its next meeting and such replacement shall serve the unexpired term of office.

ARTICLE VIII - POWERS

Section 1. The council shall have powers and responsibilities hereinafter provided, subject to any limitations imposed upon such powers by the statutes and laws of the United States.

(a) To consult, negotiate, contract, or conclude agreement with Federal, state, and local governments on activities which may affect the Native Village of Nikolai;

(b) To employ legal counsel, the choice of counsel, and fixing of fees to be subject to the approval of the Secretary of the Interior or his/her authorized representative as long as such approval is required by Federal law;

(c) To receive advice from and make recommendations to the Secretary of the Interior with regard to all appropriation estimates for all projects which are for the benefit of village members of the Native Village of Nikolai prior to the submission of such estimates to the Office of Management and Budget and Congress;

(d) To acquire property and to accept gifts;

(e) To prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe;

(f) To protect members' rights in personal property;

(g) To join and/or charter housing authorities;

(h) To charter enterprises, corporations, and associations;

(i) To administer the village's assets and manage all economic affairs and enterprises of the village, including the lease, mortgage, sale, or other disposition of lands owned by the village;

(j) To promote the peace, safety, health, and general welfare of the members of the village;

(k) To enact ordinances and regulations consistent with this constitution.

(l) To administer justice by establishing a Village Court, defining its duties and powers consistent with Federal law, including the Indian Child Welfare Act;

(m) To levy and collect taxes, fees and assessments for the village's purposes; and,

(n) To encourage and foster the arts, crafts, traditions, language, and culture of the village.

Section 2. The retained powers of the Native Village of Nikolai not expressly referred to in this constitution shall not be lost by reason of their omission and can be lawfully exercised.

ARTICLE IX - POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The eligible voters of the village shall have the right to propose legislation and vote by secret ballot to determine whether it will be adopted or rejected. Upon receipt of a valid petition signed by at least thirty percent (30%) of the eligible voters, the council shall call an election to be conducted by the election board no later than thirty (30) days after receipt of the petition. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issues or questions submitted to the voters.

Section 2. Referendum. The council, by an affirmative vote of at least three (3) of its members, shall call an election to be conducted by the election board within thirty (30) days of such council decision for the purpose of deciding by secret ballot issues or questions that are within the authority of the council. An affirmative vote by at least a majority of the eligible voters shall be required to determine the issues or questions submitted to the voters.

Section 3. The decision of the voters in both initiative and referendum elections shall be binding on the council and the village and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE X - RIGHTS OF MEMBERS

Section 1. All members of the village shall enjoy, without hindrance, equal rights of life, liberty, and the pursuit of happiness.

Section 2. This constitution shall not in any way alter, abridge, or otherwise jeopardize the rights and privileges of the members of the village as citizens of the State of Alaska or the United States.

Section 3. Village members shall have the right to review all council records, including financial records, at any reasonable time in accordance with procedures established by the council.

Section 4. The Native Village of Nikolai, in exercising its powers of self-government, shall not deny to any person within its jurisdiction freedom of speech,

press, or religion, or the right to assemble peacefully. The tribal government shall not deny to any person the equal protection of tribal laws or deprive any person of liberty or property without due process of law. The tribe shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968.

ARTICLE XI - DUTIES OF OFFICERS

Section 1. Newly elected officers shall assume their respective office and duties immediately upon being elected and seated.

Section 2. The First Chief shall preside at all meetings of the council and shall execute on behalf of the village all contracts, leases or other documents approved by the council. He/she shall vote in all cases except on the matter of his/her removal. He/she shall have general supervision of all other officers, employees, and committees of the community and see that their duties are properly performed. When the council is not in session, he/she shall be the official representative of the village.

Section 3. The Second Chief shall assist the First Chief when called upon to do so. In the absence of the First Chief, he/she shall preside and when so presiding shall have all the rights, privileges, duties and responsibilities of the First Chief.

Section 4. The Secretary/Treasurer shall keep the minutes of all meetings and shall attest to the enactment of all resolutions and ordinances. The Secretary/ Treasurer shall issue notices of all meetings and elections and conduct all general correspondence as directed by the council.

The Secretary/Treasurer shall carry out the financial directives of the council, receive all local monies and keep an accurate account of the receipts and disbursements. Funds shall be deposited in the Native Village of Eagle's accounts in a local bank selected by the council where depositor's funds are insured by the Federal Deposit Insurance Corporation (FDIC). All disbursements shall be made by check in accordance with resolutions of the council. In the event that total village accounts exceed $100,000 in deposits for the fiscal year, the Secretary/

Treasurer shall file a bond satisfactory to the council. The council shall authorize payment of the annual bond premium from community funds. The Secretary/Treasurer shall give a financial report to the council once a month, and all financial reports shall be available for inspection by any member of the village. At the expiration of his/her term of office, the Secretary/Treasurer shall turn over all the records and papers in his/her possession to his/her successor or to the council.

ARTICLE XII - MEETINGS

Section 1. Regular meetings of the council shall be held monthly; the time, place, and date to be designated by the council.

Special meetings of the council may be called by the First Chief and shall be called by him/her upon receipt of a petition signed by at least three (3) members of the council and when so called, the council shall have power to transact business as in regular meetings, provided that a quorum is present.

Section 2. A quorum of the council shall consist of three (3) members of the council. No business shall be transacted unless a quorum is present.

Section 3. All meetings of the council shall be open to the general membership of the Native Village of Nikolai; provided, however, that the council may recess at its discretion to discuss any matter in a closed or executive session, if the general subject matter to be discussed is expressed in the motion calling for such session and no final or official action is taken thereon in the closed or executive session.

Section 4. All final decisions of the council on matters of general or permanent interest to members shall be embodied in ordinances. The ordinances shall be collected and made available to village members and others affected upon reasonable request.

Section 5. All final decisions of the council on matters of temporary interest shall be embodied in resolutions. Resolutions shall be collected and made available to village members and others affected upon reasonable request.

Section 6. Regular meetings of the general membership of the Native Village of Nikolai shall be held at least once annually. The date, time, and place of such meetings shall be first set by the First Chief and shall be called by him upon receipt of a petition signed by at least thirty percent (30%) of the village residents.

Section 7. A quorum of the general membership shall consist of twenty-five percent (25%) of the voting members. No business shall be conducted unless a quorum is present.

ARTICLE XIII - SEVERABILITY

If any provision of this constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the invalid provision shall be severed and the remaining provisions shall continue in full force and effect.

ARTICLE XIV - AMENDMENTS

Section 1. This constitution may be amended by a majority vote of the qualified voters of the Native Village of Nikolai voting in an election called for that purpose by the Secretary of the Interior or his authorized representative, provided, that at least thirty percent (30%) of those entitled to vote shall vote in such election. No amendment shall become effective until approved by the Secretary of the Interior or his authorized representative.

Section 2. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the council or upon receipt of a petition signed by at least thirty percent (30%) of the qualified voters of the Native Village of Nikolai.

ARTICLE XV - ADOPTION

This constitution, when adopted by a majority vote of the qualified voters of the Native Village of Nikolai voting at an election called for that purpose by the

Secretary of the Interior or his authorized representative in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of his approval.

ARTICLE XVI - CERTIFICATE OF ADOPTION

Pursuant to an order issued on _____, 198___, by _____, Assistant Secretary - Indian Affairs, this constitution of the Native Village of Nikolai, was submitted for adoption to the qualified voters of the Native Village of Nikolai and was, on _____, 198___, duly adopted/rejected by a vote of _____ for, and _____ against, in an election in which at least thirty percent (30%) of the _____ members entitled to vote, cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of May 1, 1936 (49 Stat. 1250).

_____
Chairman, Election Board

_____
Election Board Member

_____
Election Board Member

Date: _____

ARTICLE XVII - CERTIFICATE OF APPROVAL

In that this constitution was duly adopted as evidenced by Article XVI, I, _____, Assistant Secretary - Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by 209 DM 8.3, do hereby approve this constitution of the Native Village of Nikolai. It is effective as of this date; provided, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal Law.

_____
Assistant Secretary - Indian Affairs

Washington, D.C.

Date: _____